

Department of Energy

§ 708.15

(1) The alleged retaliation taken against you and

(2) The disclosure, participation, or refusal that you believe gave rise to the retaliation;

(b) A statement that you are not currently pursuing a remedy under State or other applicable law, as described in § 708.15 of this subpart;

(c) A statement that all of the facts that you have included in your complaint are true and correct to the best of your knowledge and belief; and

(d) An affirmation, as described in § 708.13 of this subpart, that you have exhausted (completed) all applicable grievance or arbitration procedures.

§ 708.13 What must an employee do to show that all grievance-arbitration procedures have been exhausted?

(a) To show that you have exhausted all applicable grievance-arbitration procedures, you must:

(1) State that all available opportunities for resolution through an applicable grievance-arbitration procedure have been exhausted, and provide the date on which the grievance-arbitration procedure was terminated and the reasons for termination; or

(2) State that you filed a grievance under applicable grievance-arbitration procedures, but more than 150 days have passed and a final decision on it has not been issued, and provide the date that you filed your grievance; or

(3) State that your employer has established no grievance-arbitration procedures.

(b) If you do not provide the information specified in § 708.13(a), your complaint may be dismissed for lack of jurisdiction as provided in § 708.17 of this subpart.

§ 708.14 How much time does an employee have to file a complaint?

(a) You must file your complaint by the 90th day after the date you knew, or reasonably should have known, of the alleged retaliation.

(b) The period for filing a complaint does not include time spent attempting to resolve the dispute through an internal company grievance-arbitration procedure. The time period for filing stops running on the day the internal griev-

ance is filed and begins to run again on the earlier of:

(1) The day after such dispute resolution efforts end; or

(2) 150 days after the internal grievance was filed if a final decision on the grievance has not been issued.

(c) The period for filing a complaint does not include time spent resolving jurisdictional issues related to a complaint you file under State or other applicable law. The time period for filing stops running on the date the complaint under State or other applicable law is filed and begins to run again the day after a final decision on the jurisdictional issues is issued.

(d) If you do not file your complaint during the 90-day period, the Head of Field Element or EC Director (as applicable) will give you an opportunity to show any good reason you may have for not filing within that period, and that official may, in his or her discretion, accept your complaint for processing.

§ 708.15 What happens if an employee files a complaint under this part and also pursues a remedy under State or other law?

(a) You may not file a complaint under this part if, with respect to the same facts, you choose to pursue a remedy under State or other applicable law, including final and binding grievance-arbitration procedures, unless:

(1) Your complaint under State or other applicable law is dismissed for lack of jurisdiction;

(2) Your complaint was filed under 48 CFR part 3, Subpart 3.9 and the Inspector General, after conducting an initial inquiry, determines not to pursue it; or

(3) You have exhausted grievance-arbitration procedures pursuant to § 708.13, and issues related to alleged retaliation for conduct protected under § 708.5 remain.

(b) Pursuing a remedy other than final and binding grievance-arbitration procedures does not prevent you from filing a complaint under this part.

(c) You are considered to have filed a complaint under State or other applicable law if you file a complaint, or other pleading, with respect to the same facts in a proceeding established